

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 24, 2007

Date

Honorable David Dewhurst
President of the Senate


Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 993 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

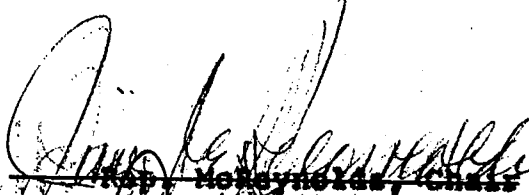

Sen. Nelson, Chair



Sen. Ellis

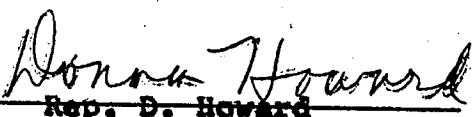

Sen. Dauell



Sen. Shapiro

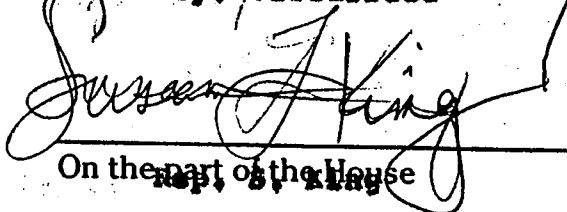
On the part of the Senate
Sen. Jank


Rep. McKeown, Chair


Rep. Delisi


Rep. D. Howard


Rep. Villarreal


Rep. King

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 993

A BILL TO BE ENTITLED

AN ACT

relating to nursing peer review and the regulation of the practice of nursing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 301.002, Occupations Code, is amended by adding Subdivisions (1-a) and (1-b) to read as follows:

(1-a) "Chief nursing officer" means the registered nurse who is administratively responsible for the nursing services at a facility.

(1-b) "Patient safety committee" has the meaning assigned by Section 303.001.

SECTION 2. Subsection (b), Section 301.303, Occupations Code, is amended to read as follows:

(b) The board may not require participation in more than a total of 20 hours of continuing education in a two-year licensing period ~~[and may not require that more than 10 hours of the continuing education consist of classroom instruction in approved programs. The remaining hours of continuing education may consist of any combination of:~~

~~[(1) classroom instruction,~~

~~[(2) institutional-based instruction, or~~

~~[(3) individualized study].~~

SECTION 3. Section 301.352, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (f) to

1 read as follows:

2 (a) A person may not suspend, terminate, or otherwise
3 discipline or discriminate against a nurse who refuses to engage in
4 an act or omission as provided by Subsection (a-1).

5 (a-1) A nurse may refuse to engage in an act or omission
6 relating to patient care that would constitute grounds for
7 reporting the nurse to the board under Subchapter I, that
8 constitutes a minor incident, or that violates this chapter or a
9 board rule if the nurse notifies the person at the time of the
10 refusal that the reason for refusing is that the act or omission:

11 (1) constitutes grounds for reporting the nurse to the
12 board; or

13 (2) is a violation of this chapter or a rule of the
14 board.

15 (f) A violation of this section is subject to Section
16 301.413.

17 SECTION 4. Subchapter H, Chapter 301, Occupations Code, is
18 amended by adding Section 301.355 to read as follows:

19 Sec. 301.355. POLICIES APPLICABLE TO NURSES EMPLOYED BY
20 MEDICAL AND DENTAL UNITS. (a) The president of a medical and
21 dental unit, as defined by Section 61.003, Education Code, shall
22 determine whether a nurse who is employed by the unit for practice
23 in patient care or in clinical activities is a full-time employee
24 for purposes of:

25 (1) employees group benefits under Chapter 1551 or
26 1601, Insurance Code;

27 (2) leave under Chapter 661 or 662, Government Code;

1 and

2 (3) longevity pay under Section 659.043, Government
3 Code.

4 (b) A determination under Subsection (a) does not entitle a
5 nurse who works less than 40 hours a week to the full state
6 contribution to the cost of any coverage or benefit. However, from
7 money other than money appropriated from the general revenue fund,
8 the medical and dental unit may contribute to the cost of any
9 coverage or benefit an amount that exceeds the state contribution.

10 SECTION 5. The heading to Subchapter I, Chapter 301,
11 Occupations Code, is amended to read as follows:

12 SUBCHAPTER I. REPORTING VIOLATIONS AND PATIENT CARE CONCERNS [~~DUTY~~
13 ~~TO REPORT VIOLATION~~]

14 SECTION 6. Section 301.401, Occupations Code, is amended to
15 read as follows:

16 Sec. 301.401. DEFINITIONS [~~GROUND FOR REPORTING NURSE~~].
17 In this subchapter:

18 (1) "Conduct subject to reporting" means conduct by a
19 nurse that:

20 (A) violates this chapter or a board rule and
21 contributed to the death or serious injury of a patient;

22 (B) causes a person to suspect that the nurse's
23 practice is impaired by chemical dependency or drug or alcohol
24 abuse;

25 (C) constitutes abuse, exploitation, fraud, or a
26 violation of professional boundaries; or

27 (D) indicates that the nurse lacks knowledge,

1 skill, judgment, or conscientiousness to such an extent that the
2 nurse's continued practice of nursing could reasonably be expected
3 to pose a risk of harm to a patient or another person, regardless of
4 whether the conduct consists of a single incident or a pattern of
5 behavior.

6 (2) "Minor incident" means conduct by a nurse that
7 does not indicate that the nurse's continued practice poses a risk
8 of harm to a patient or another person.

9 (3) "Nursing educational program" means an
10 educational program that is considered approved by the board that
11 may lead to an initial license as a registered nurse or vocational
12 nurse.

13 (4) "Nursing student" means an individual who is
14 enrolled in a nursing educational program ~~[(a) Except as provided~~
15 ~~by Subsection (b), the following are grounds for reporting a nurse~~
16 ~~under Section 301.402, 301.403, 301.405, or 301.407:~~

17 ~~[(1) likely exposure by the nurse of a patient or other~~
18 ~~person to an unnecessary risk of harm,~~

19 ~~[(2) unprofessional conduct by the nurse,~~

20 ~~[(3) failure by the nurse to adequately care for a~~
21 ~~patient,~~

22 ~~[(4) failure by the nurse to conform to the minimum~~
23 ~~standards of acceptable nursing practice, or~~

24 ~~[(5) impairment or likely impairment of the nurse's~~
25 ~~practice by chemical dependency].~~

26 ~~[(b) Subsection (a) does not apply to a minor incident, as~~
27 ~~defined by Section 301.419, if the incident is not required to be~~

~~reported under a rule adopted under Section 301.419.]~~

SECTION 7. The heading to Section 301.402, Occupations Code, is amended to read as follows:

Sec. 301.402. MANDATORY REPORT BY NURSE ~~[DUTY OF NURSE TO REPORT]~~.

SECTION 8. Subsections (b), (e), and (f), Section 301.402, Occupations Code, are amended to read as follows:

(b) A nurse shall report to the board in the manner prescribed under Subsection (d) if the nurse has reasonable cause to suspect that:

(1) another nurse has engaged in conduct subject to reporting ~~[is subject to a ground for reporting under Section 301.401]~~; or

(2) the ability of a nursing student to perform the services of the nursing profession would be, or would reasonably be expected to be, impaired by chemical dependency.

(e) Instead of reporting to the board under Subsection (b), a [A] nurse may make a report required under:

(1) Subsection (b)(1) to a nursing peer review committee under Chapter 303; or

(2) Subsection (b)(2) to the nursing educational program in which the student is enrolled ~~[instead of reporting to the board]~~.

(f) A person may not suspend or terminate the employment of, or otherwise discipline or discriminate against, a person who reports, without malice, under this section. A violation of this subsection is subject to Section 301.413 ~~[nurse may report to the~~

~~nurse's employer or another entity at which the nurse is authorized to practice any situation that the nurse has reasonable cause to believe exposes a patient to substantial risk of harm as a result of a failure to provide patient care that conforms to minimum standards of acceptable and prevailing professional practice or to statutory, regulatory, or accreditation standards. For purposes of this subsection, the employer or entity includes an employee or agent of the employer or entity].~~

SECTION 9. Subchapter I, Chapter 301, Occupations Code, is amended by adding Section 301.4025 to read as follows:

Sec. 301.4025. OPTIONAL REPORT BY NURSE. (a) In a written, signed report to the appropriate licensing board or accrediting body, a nurse may report a licensed health care practitioner, agency, or facility that the nurse has reasonable cause to believe has exposed a patient to substantial risk of harm as a result of failing to provide patient care that conforms to:

(1) minimum standards of acceptable and prevailing professional practice, for a report made regarding a practitioner; or

(2) statutory, regulatory, or accreditation standards, for a report made regarding an agency or facility.

(b) A nurse may report to the nurse's employer or another entity at which the nurse is authorized to practice any situation that the nurse has reasonable cause to believe exposes a patient to substantial risk of harm as a result of a failure to provide patient care that conforms to minimum standards of acceptable and prevailing professional practice or to statutory, regulatory, or

1 accreditation standards. For purposes of this subsection, an
2 employer or entity includes an employee or agent of the employer or
3 entity.

4 (c) A person may not suspend or terminate the employment of,
5 or otherwise discipline or discriminate against, a person who
6 reports, without malice, under this section. A violation of this
7 subsection is subject to Section 301.413.

8 SECTION 10. Section 301.403, Occupations Code, is amended
9 to read as follows:

10 Sec. 301.403. DUTY OF PEER REVIEW COMMITTEE TO REPORT.

11 (a) Except as provided by Subsection (b), a [A] nursing peer
12 review committee operating under Chapter 303 that determines that a
13 nurse has engaged in conduct subject to reporting ~~[has a ground for~~
14 ~~reporting a nurse under Section 301.401]~~ shall file with the board a
15 written, signed report that includes:

16 (1) the identity of the nurse;

17 (2) a description of any corrective action taken
18 against the nurse;

19 (3) a recommendation ~~[statement]~~ whether the ~~[nursing~~
20 ~~peer review committee recommends that the]~~ board should take formal
21 disciplinary action against the nurse and the basis for the
22 recommendation;

23 (4) a description of the conduct subject to ~~[ground~~
24 ~~for]~~ reporting;

25 (5) the extent to which any deficiency in care
26 provided by the reported nurse was the result of a factor beyond the
27 nurse's control ~~[rather than a deficiency in the nurse's judgment,~~

1 ~~knowledge, training, or skill~~]; and

2 (6) any additional information the board requires.

3 (b) A report under Subsection (a) is not required if:

4 (1) the nursing peer review committee determines that
5 the reported conduct was a minor incident that is not required to be
6 reported under board rule; or

7 (2) the nurse has been reported to the board for the
8 conduct under Section 301.405.

9 SECTION 11. Section 301.404, Occupations Code, is amended
10 to read as follows:

11 Sec. 301.404. DUTY OF NURSING EDUCATIONAL PROGRAM TO
12 REPORT. [~~(a) In this section, "nursing educational program" and~~
13 ~~"nursing student" have the meanings assigned by Section 301.402(a).~~

14 ~~[(b)]~~ A nursing educational program that has reasonable
15 cause to suspect that the ability of a nursing student to perform
16 the services of the nursing profession would be, or would
17 reasonably be expected to be, impaired by chemical dependency shall
18 file with the board a written, signed report that includes the
19 identity of the student and any additional information the board
20 requires.

21 SECTION 12. Subsections (b), (c), and (e), Section 301.405,
22 Occupations Code, are amended to read as follows:

23 (b) A person that terminates, suspends for more than seven
24 days, or takes other substantive disciplinary action, as defined by
25 the board, against a nurse, or a substantially equivalent action
26 against a nurse who is a staffing agency nurse, because the nurse
27 engaged in conduct subject to reporting [~~a ground under Section~~

1 ~~301.401 exists to report the nurse]~~ shall report in writing to the
2 board:

3 (1) the identity of the nurse;

4 (2) the conduct subject to reporting that resulted in
5 ~~[ground that preceded]~~ the termination, suspension, or other
6 substantive disciplinary action or substantially equivalent
7 action; and

8 (3) any additional information the board requires.

9 (c) If a person who makes a report required under Subsection
10 (b) is required under Section 303.0015 to establish a nursing peer
11 review committee, the person shall submit a copy of the report to
12 the nursing peer review committee. The nursing peer review
13 committee shall review the conduct to determine if any deficiency
14 in care by the reported nurse was the result of a factor beyond the
15 nurse's control. A nursing peer review committee that determines
16 that there is reason to believe that the nurse's deficiency in care
17 was the result of a factor beyond the nurse's control shall report
18 the conduct to the patient safety committee at the facility where
19 the reported conduct occurred, or if the facility does not have a
20 patient safety committee, to the chief nursing officer. [Except as
21 provided by Subsection (g), each person subject to this section
22 that regularly employs, hires, or otherwise contracts for the
23 services of 10 or more nurses shall develop a written plan for
24 identifying and reporting a nurse under Section 301.401(a). The
25 plan must provide for the review of the nurse and the incident by a
26 nursing peer review committee established and operated under
27 Chapter 303. Review by the committee is only advisory, but is

~~required, even if the nurse is voluntarily or involuntarily terminated.]~~

(e) The requirement under Subsection (c) that a nursing peer review committee review the nurse and the incident does not subject a person's administrative decision to discipline a nurse to the peer review process ~~[or prevent a person from taking disciplinary action before review by the peer review committee is conducted]~~.

SECTION 13. Subsection (b), Section 301.407, Occupations Code, is amended to read as follows:

(b) Unless expressly prohibited by state or federal law, a state agency that has reason to believe that a nurse has engaged in conduct subject to reporting ~~[a ground for reporting a nurse exists under Section 301.401]~~ shall report the nurse in writing to the board or to a nursing peer review committee under Chapter 303 ~~[the identity of that nurse]~~.

SECTION 14. Subsections (a), (b), (c), and (e), Section 301.413, Occupations Code, are amended to read as follows:

(a) A person named as a defendant in a civil action or subjected to other retaliatory action as a result of filing a report required, authorized, or reasonably believed to be required or authorized under this subchapter as a result of refusing to engage in conduct as authorized by Section 301.352, or as a result of requesting in good faith a nursing peer review determination under Section 303.005, may file a counterclaim in the pending action or prove a cause of action in a subsequent suit to recover defense costs, including reasonable attorney's fees and actual and punitive damages, if the suit or retaliatory action is determined to be

1 frivolous, unreasonable, or taken in bad faith.

2 (b) A person may not suspend or terminate the employment of,
3 or otherwise discipline or discriminate against, a person who:

4 (1) reports, without malice, under this subchapter; or
5 (2) requests, in good faith, a nursing peer review
6 determination under Section 303.005.

7 (c) A person who reports under this subchapter, refuses to
8 engage in conduct as authorized by Section 301.352, or requests a
9 nursing peer review determination under Section 303.005 has a cause
10 of action against a person who violates Subsection (b), and may
11 recover:

12 (1) the greater of:

13 (A) actual damages, including damages for mental
14 anguish even if no other injury is shown; or

15 (B) \$5,000 [~~\$1,000~~];

16 (2) exemplary damages;

17 (3) court costs; and

18 (4) reasonable attorney's fees.

19 (e) A person who brings an action under this section has the
20 burden of proof. It is a rebuttable presumption that the person's
21 employment was suspended or terminated for reporting under this
22 subchapter, for refusing to engage in conduct as authorized by
23 Section 301.352, or for requesting a peer review committee
24 determination under Section 303.005 if:

25 (1) the person was suspended or terminated within 60
26 days after the date the report, refusal, or request was made; and

27 (2) the board or a court determines that:

1 (A) the report that is the subject of the cause of
2 action was:

3 (i) [~~A~~] authorized or required under
4 Section 301.402, 301.4025, 301.403, 301.405, 301.406, 301.407,
5 301.408, 301.409, or 301.410; and

6 (ii) [~~B~~] made without malice;

7 (B) the request for a peer review committee
8 determination that is the subject of the cause of action was:

9 (i) authorized under Section 303.005; and

10 (ii) made in good faith; or

11 (C) the refusal to engage in conduct was
12 authorized by Section 301.352.

13 SECTION 15. Section 301.457, Occupations Code, is amended
14 by adding Subsection (g) to read as follows:

15 (g) If the board determines after investigating a complaint
16 under Subsection (e) that there is reason to believe that a nurse's
17 deficiency in care was the result of a factor beyond the nurse's
18 control, the board shall report that determination to the patient
19 safety committee at the facility where the nurse's deficiency in
20 care occurred, or if the facility does not have a patient safety
21 committee, to the chief nursing officer.

22 SECTION 16. Section 303.001, Occupations Code, is amended
23 by adding Subdivision (4-a) to read as follows:

24 (4-a) "Patient safety committee" means a committee
25 established by an association, school, agency, health care
26 facility, or other organization to address issues relating to
27 patient safety, including:

1 (A) the entity's medical staff composed of
2 individuals licensed under Subtitle B; or

3 (B) a medical committee under Subchapter D,
4 Chapter 161, Health and Safety Code.

5 SECTION 17. Chapter 303, Occupations Code, is amended by
6 adding Section 303.0015 to read as follows:

7 Sec. 303.0015. REQUIRED ESTABLISHMENT OF NURSING PEER
8 REVIEW COMMITTEE. (a) A person shall establish a nursing peer
9 review committee to conduct nursing peer review under this chapter
10 and Chapter 301:

11 (1) for vocational nurses, if the person regularly
12 employs, hires, or contracts for the services of 10 or more nurses;
13 and

14 (2) for professional nurses, if the person regularly
15 employs, hires, or contracts for the services of 10 or more nurses,
16 at least five of whom are registered nurses.

17 (b) A person required to establish a nursing peer review
18 committee under this section may contract with another entity to
19 conduct the peer review for the person.

20 SECTION 18. Section 303.005, Occupations Code, is amended
21 by adding Subsections (a-1) and (i) and amending Subsections (b),
22 (d), and (h) to read as follows:

23 (a-1) For purposes of this section, a nurse or nurse
24 administrator does not act in good faith in connection with a
25 request made or an action taken by the nurse or nurse administrator
26 if there is not a reasonable factual or legal basis for the request
27 or action.

1 (b) If a person who is required to establish a nursing peer
2 review committee under Section 303.0015 [~~regularly employs, hires,~~
3 ~~or otherwise contracts for the services of at least 10 nurses~~]
4 requests a nurse [~~one of those nurses~~] to engage in conduct that the
5 nurse believes violates a nurse's duty to a patient, the nurse may
6 request, on a form developed or approved by the board, a
7 determination by a nursing peer review committee under this chapter
8 of whether the conduct violates a nurse's duty to a patient.

9 (d) If a nurse requests a peer review determination under
10 Subsection (b) and refuses to engage in the requested conduct
11 pending the peer review, the determination [~~The determinations~~] of
12 the peer review committee shall be considered in any [a] decision by
13 the nurse's employer to discipline the nurse for the refusal to
14 engage in the requested conduct, but the determination is
15 [~~determinations are~~] not binding if a nurse administrator believes
16 in good faith that the peer review committee has incorrectly
17 determined a nurse's duty. This subsection does not affect the
18 protections provided by Subsection (c)(1) or Section 301.352.

19 (h) A person may not suspend or terminate the employment of,
20 or otherwise discipline or discriminate against, a nurse who in
21 good faith requests a peer review determination under this section
22 or a person who advises a nurse of the nurse's right to request a
23 determination or of the procedures for requesting a determination.
24 A violation of this subsection is subject to Section 301.413 [A
25 ~~person is not required to provide a peer review determination under~~
26 ~~this section for a request made by a registered nurse, unless the~~
27 ~~person regularly employs, hires, or otherwise contracts for the~~

1 ~~services of at least five registered nurses]~~.

2 (i) A person who is required to provide, on request, a
3 nursing peer review committee determination under Subsection (b)
4 shall adopt and implement a policy to inform nurses of the right to
5 request a nursing peer review committee determination and the
6 procedure for making a request.

7 SECTION 19. Chapter 303, Occupations Code, is amended by
8 adding Section 303.0075 to read as follows:

9 Sec. 303.0075. SHARING OF INFORMATION. (a) A nursing peer
10 review committee and a patient safety committee established by the
11 same entity may share information.

12 (b) A record or determination of a patient safety committee,
13 or a communication made to a patient safety committee, is not
14 subject to subpoena or discovery and is not admissible in any civil
15 or administrative proceeding, regardless of whether the
16 information has been provided to a nursing peer review committee.
17 The privileges under this subsection may be waived only through a
18 written waiver signed by the chair, vice chair, or secretary of the
19 patient safety committee. This subsection does not affect the
20 application of Section 303.007 to a nursing peer review committee.

21 (c) A committee that receives information from another
22 committee shall forward any request to disclose the information to
23 the committee that provided the information.

24 SECTION 20. Section 303.011, Occupations Code, is amended
25 to read as follows:

26 Sec. 303.011. EVALUATION BY COMMITTEE. (a) In evaluating
27 a nurse's conduct, the nursing peer review committee shall review

the evidence to determine the extent to which a deficiency in care by the nurse was the result of deficiencies in the nurse's judgment, knowledge, training, or skill rather than other factors beyond the nurse's control. A determination that a deficiency in care is attributable to a nurse must be based on the extent to which the nurse's conduct was the result of a deficiency in the nurse's judgment, knowledge, training, or skill.

(b) The nursing peer review committee shall report a deficiency in care that the committee determines was the result of a factor beyond the nurse's control to a patient safety committee for evaluation. The patient safety committee shall evaluate the influence of the factors on the conduct of the nurse being evaluated and on the practice of other nurses within the entity that established the committee. The committee shall report its findings to the nursing peer review committee.

SECTION 21. The following provisions of the Occupations Code are repealed:

- (1) Subsection (d), Section 301.303;
- (2) Subsection (e), Section 301.352;
- (3) Subsections (a) and (c), Section 301.402;
- (4) Subsections (d), (f), (g), and (h), Section 301.405;
- (5) Subsection (a), Section 301.419; and
- (6) Subsection (h), Section 303.005.

SECTION 22. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act.

1 Conduct that occurs before the effective date of this Act is
2 governed by the law in effect when the conduct occurs, and the
3 former law is continued in effect for that purpose.

4 (b) The change in law made by this Act by the amendment of
5 Subsection (b), Section 301.303, Occupations Code, applies only to
6 an application for renewal of a license issued under Chapter 301,
7 Occupations Code, that is submitted on or after the effective date
8 of this Act. An application for renewal submitted before the
9 effective date of this Act is governed by the law in effect when the
10 application is submitted, and the former law is continued in effect
11 for that purpose.

12 SECTION 23. This Act takes effect September 1, 2007.

Senate Bill 993
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

SECTIONS 1-2.

Same as Senate version.

Same as Senate version.

SECTION 3. Amends heading to Subchapter I, Chapter 301, Occupations Code.

Same as Senate version.

SECTION 5. Same as Senate version.

No equivalent provision.

SECTION __. Amends Section 301.352, Occupations Code, by amending Subsection (a) and adding Subsections (a-1) and (f) as follows:
(a) Makes a conforming change.
(a-1) Clarifies that a nurse is authorized to refuse to engage in certain conduct.
(f) Provides that a violation of this section is subject to Section 301.413.

SECTION 3. Same as House version.

No equivalent provision.

SECTION __. Adds Section 301.355, Occupations Code, Policies Applicable to Nurses Employed by Medical and Dental Units. (a) Requires the president of a medical or dental unit to determine whether certain nurses are full-time employees for purposes of employee group benefits under Chapter 1551, Insurance Code, leave under Chapter 661, Government Code, and longevity pay under Section 659.043, Government Code.
(b) Provides that a determination under Subsection (a) does not entitle a nurse who works less than 40 hours a week to the full state contribution to the cost of any coverage or benefit. Authorizes the medical or dental unit to contribute an amount that exceeds the state contribution from money other than money appropriated from the general revenue fund.

SECTION 4. Same as House version except refers to group benefits under Chapter 1551 *or* 1601, Insurance Code, and leave under Chapter 661 *or* 662, Government Code.

SECTION 4. Amends Section 301.401, Occupations

Same as Senate version except defines "nursing

SECTION 6. Same as House version.

Senate Bill 993
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

Code, Definitions. Among other provisions, defines "nursing educational program" to mean an educational program approved by the board that may lead to an initial license as a registered nurse or vocational nurse.

No equivalent provision.

SECTION 5. Amends Sections 301.402(b) and (e), Occupations Code.

No equivalent provision.

SECTIONS 6-9.

HOUSE VERSION

educational program" to mean an educational program *that is considered* approved by the board that may lead to an initial license as a registered nurse or vocational nurse.

SECTION __. Amends the heading to Section 301.402, Occupations Code, to read: Mandatory Report by Nurse.

Same as Senate version except also amends Subsection (f) to prohibit a person from taking certain disciplinary action against a person who reports under this section. Provides that a violation of the subsection is subject to Section 301.413. *(Strikes the current provision of Subsection (f) and moves that provision to new statutory Section 301.4025(b), Occupations Code. See below.)*

SECTION __. Adds Section 301.4025, Occupations Code, Optional Report by Nurse. (a) Allows a nurse to report certain entities that the nurse has reasonable cause to believe have exposed a patient to substantial risk of harm as a result of failing to provide patient care that conforms to certain standards.
(b) *(Adds language from current Section 301.402(f), Occupations Code. See above.)*
(c) Prohibits a person from taking certain disciplinary action against a person who reports under this section. Provides that a violation of this subsection is subject to Section 301.413.

Same as Senate version.

CONFERENCE

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Same as House version.

SECTIONS 10-13. Same as Senate version.

Senate Bill 993
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

SECTION __. Amends Subsections (a), (b), (c), and (e), Section 301.413, Occupations Code, as follows: (a) Allows a person named as a defendant in a civil action or subjected to other retaliatory action as a result of refusing to engage in conduct as authorized by Section 301.352 or as a result of requesting in good faith a nursing peer review determination under Section 303.005 to file a counterclaim or prove a cause of action in a subsequent suit to recover defense costs. (b) Prohibits certain disciplinary actions against such an individual. (c) Increases from \$1,000 to \$5,000 the maximum amount of certain damages a person may recover in a cause of action against a person who violates certain provisions of the section. (e) Makes conforming changes relating to rebuttable presumption and adds a cross-reference to the optional report authorized under Section 301.4025.

SECTION 14. Same as House version.

SECTIONS 10-12.

Same as Senate version.

SECTIONS 15-17. Same as Senate version.

SECTION 13. Amends Subsection (b), Section 303.005, Occupations Code, as follows:

SECTION __. Same as Senate version except also adds Subsections (a-1) and (i) and amends Subsections (d) and (h) as follows:

SECTION 18. Same as House version.

No equivalent provision.

(a-1) Clarifies that a nurse or nurse administrator does not act in good faith in connection with a request for determination of a peer review committee or an action taken by the nurse or administrator absent a reasonable factual or legal basis for the request or action.

(a-1) Same as House version.

(b)

(b) Same as Senate version.

(b) Same as Senate version.

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SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

(d) Clarifies the conditions under which a nurse's employer must consider the determination of a peer review committee in making a decision to discipline a nurse for refusing to engage in certain conduct. Provides that this subsection does not affect the protections provided by Subsection (c)(1) or Section 301.352.

(d) Same as House version.

No equivalent provision.

(h) Prohibits a person from taking certain disciplinary action against a nurse who in good faith requests a peer review determination or against a person who advises a nurse in relation to a request. Provides that a violation of this subsection is subject to Section 301.413. Deletes a provision relating to conditions under which a person is not required to provide a peer review determination.

(h) Same as House version.

No equivalent provision.

(i) Requires a person who is obligated to provide a nursing peer review committee determination to adopt and implement a policy to inform nurses of the right to request a determination and the procedure for making a request.

(i) Same as House version.

SECTIONS 14-15.

Same as Senate version.

SECTIONS 19-20. Same as Senate version.

SECTION 16. Repealer.

SECTION 16. Same as Senate version except also repeals Section 301.402(c), Occupations Code.

SECTION 21. Same as House version.

SECTION 17. Saving provisions.

Same as Senate version.

SECTION 22. Same as Senate version.

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SECTION 18. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

SECTION __. This Act takes effect September 1, 2007.

SECTION 23. Same as House version.